



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2013-0339]

National Environmental Policy Act; Implementing Procedures;
Addition of Categorical Exclusion for Real Property
Disposal

AGENCY: Coast Guard, DHS.

ACTION: Notice of the addition of one new categorical
exclusion to the United States Coast Guard and Department
of Homeland Security NEPA implementing procedures.

SUMMARY: This notice announces the addition of a new
Categorical Exclusion (CATEX) for Real Property Disposal
under the National Environmental Policy Act (NEPA). This
CATEX amends the United States Coast Guard and Department
of Homeland Security NEPA implementing procedures by
establishing a new CATEX for real property disposal
undertaken by the United States Coast Guard. With this
CATEX, the Coast Guard will be able to dispose of real
property under certain authorities without preparing an
environmental assessment or environmental impact statement.
DATES: The categorical exclusion is effective [INSERT DATE]

OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the new categorical exclusion contact Ms. Kebby Kelly, Office of Environmental Management (CG-47), U.S. Coast Guard; telephone 202-475-5690, email: Kebby.Kelley@uscg.mil.

Viewing the supporting material: To view the supporting material for the establishment of this CATEX, go to <http://www.regulations.gov>, and follow the instructions on that website. If you do not have access to the internet, you may view the docket by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Coast Guard has an agreement with the Department of Transportation to use the Docket Management Facility.

SUPPLEMENTARY INFORMATION:

Background

DHS and the Coast Guard determined that a new Categorical Exclusion (CATEX) for real property disposal was needed to cover two new real property disposal authorities that are specific to the Coast Guard. The use of this new CATEX within DHS will be limited to USCG real property disposal activities. In the past, the Coast Guard

exclusively used the process established by the General Services Administration (GSA) to dispose of excess real property, unless specifically directed otherwise by Congress. Because the Coast Guard previously worked through the GSA for real property disposal, the GSA was able to use its CATEX to fulfill obligations under the National Environmental Policy Act (NEPA). Recently, Congress passed two pieces of legislation that directly authorize the Department of Homeland Security (DHS) and the Coast Guard to dispose of real property through sale and keep the proceeds for use in specific Coast Guard programs.

Specifically, the Coast Guard has been granted authority to dispose of property previously used for Long Range Navigation (Loran-C) equipment. The Coast Guard has also been granted the authority to dispose of real property in order to pay for military family and military unaccompanied housing projects. The Coast Guard now adds a CATEX that contains the same language as the GSA's CATEX that will allow the Coast Guard to satisfy its NEPA obligations when disposing of excess real property.

The Department of Homeland Security Appropriations Act, 2010 (Public Law 111-83), authorizes the Coast Guard to sell any real and personal property under the administrative control of the Coast Guard and used for the

Loran-C system, by directing the Administrator of GSA to sell such real and personal property. This is allowed, provided that the proceeds, less the costs of sale incurred by the GSA, shall be deposited as offsetting collections into the "Coast Guard Environmental Compliance and Restoration" account and, subject to appropriation, shall be available until expended for environmental compliance and restoration purposes associated with the Loran-C system.

Additionally, Congress passed 14 U.S.C. 685, Conveyance of Real Property (January 7, 2011), which states that notwithstanding any other provision of law, the Secretary of the respective department in which the Coast Guard is operating (Secretary) may convey, at fair market value, real property, owned or under the administrative control of the Coast Guard, for the purpose of expending the proceeds from such conveyance to acquire and construct military family housing and military unaccompanied housing. The conveyance of real property under this section shall be by sale, for cash. The Secretary shall deposit the proceeds from the sale in the Coast Guard Housing Fund.

The Council on Environmental Quality (CEQ) guidance entitled, "Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act"

(February 18, 2010) encourages agencies to establish new CATEXs and revise existing CATEXs to eliminate unnecessary paperwork and effort reviewing the environmental effects of categories of actions that, absent extraordinary circumstances, do not have significant environmental effects. Without this CATEX for real property disposal, DHS and the Coast Guard would have to prepare an Environmental Assessment for every action of this type, including those that experience has shown do not typically have the potential for significant environmental impacts. Therefore, DHS and the Coast Guard now add this new real property disposal CATEX for these types of actions that experience has shown do not have significant environmental impacts in order to carry out the Coast Guard's new legislative authorities in a timely and efficient manner.

The CEQ guidance also states that when substantiating a new or revised CATEX, agencies can draw on several sources of supporting information. These sources include professional staff and expert opinion and benchmarking other agencies' experiences. Through a review of other agencies' NEPA procedures, the Coast Guard and DHS found that numerous other Federal agencies have CATEXs for real property disposal activities that are sufficiently descriptive of the activity as to establish that those

activities were similar in nature, scope, and impact on the human environment as those real property disposals that will be performed by the Coast Guard. In addition, all Federal agencies, with very few exceptions, must meet the same requirements to protect the environment.

Particular agency CATEXs examined by the Coast Guard include those used by the GSA and the Department of the Army. DHS also received expert opinions from NEPA practitioners at GSA and the Department of the Army that support this new CATEX for the disposal of real property (including facilities) by the Coast Guard. Descriptions of the other agency CATEXs (with hyperlinks) and expert opinions obtained are provided in the administrative record available at <http://www.regulations.gov> by searching docket number USCG-2013-0339.

A Federal Register notice of availability and request for comments was published on May 17, 2013 (78 FR 29145). No comments were received by the end of the comment period on June 17, 2013. To view documents online relating to this categorical exclusion, go to <http://www.regulations.gov>, insert (USCG-2013-0339) in the Search box, then click on the "Open Docket Folder" option. If you do not have access to the internet, you may view the docket by visiting the Docket Management Facility in Room

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Categorical Exclusion

The following Coast Guard-specific CATEX is added to the existing list of CATEXs published in Coast Guard Commandant Instruction 16475.1D, National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, and in the DHS Environmental Planning Program Directive 023-01 (71 FR 16790):

* Disposal of real property (including facilities) by the USCG where the reasonably foreseeable use will not change significantly or where the reasonably foreseeable use is similar to existing surrounding properties (e.g. commercial store in a commercial strip, warehouse in an urban complex, office building in downtown area, row house or vacant lot in an urban area).

The asterisk (*) indicates application of this CATEX requires the completion of an environmental review of the

proposed disposal action documented in a Record of Environmental Consideration to ensure extraordinary circumstances have been appropriately considered. The availability of this CATEX does not exempt the applicability of other environmental requirements such as, but not limited to, section 7 of the Endangered Species Act, section 106 of the National Historic Preservation Act, and the Migratory Bird Treaty Act. These requirements must be met regardless of the applicability of this CATEX under NEPA.

This notice is issued under authority of: 5 U.S.C. 552(a); 42 U.S.C. 4321 et seq.; 40 CFR 1500-1508; Department of Homeland Security Directive 023-01 Environmental Planning Program; and United States Coast Guard Commandant Instruction M16475.1D, National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts.

Dated: July 17, 2013

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